

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

FILED-CLERK
U.S. DISTRICT COURT

99 MAY 25 PM 4:20

IN RE NORPLANT CONTRACEPTIVE
PRODUCTS LIABILITY LITIGATION

TX EASTERN-BEAUMONT
MDL DOCKET NO. 1038

BY *Beverly Aulbaugh*

**WYETH'S MOTION FOR PARTIAL SUMMARY JUDGMENT
REGARDING STATUTE OF LIMITATIONS**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COME NOW Defendants, Wyeth-Ayerst Laboratories, et al., and pursuant to Federal Rule of Civil Procedure 56, move for Partial Summary Judgment Regarding Statute of Limitations for the reasons set forth in the accompanying Memorandum in Support of such Motion. Defendants have met the requirements for a Partial Summary Judgment in their favor pursuant to Rule 56 and are entitled to judgment in their favor as a matter of law.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that this Motion for Partial Summary Judgment be granted after proper notice to Plaintiffs.

Respectfully submitted,

GERMER & GERTZ

By: *[Signature]*
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Dated: May 25, 1999

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was forwarded to all counsel of record on this 24th day of May, 1999 as follows:

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Paul W. Gertz

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

IN RE NORPLANT CONTRACEPTIVE PRODUCTS LIABILITY LITIGATION	:	MDL DOCKET NO. 1038
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BRANDI L. ALFORD, ET AL.	:	
	:	
V.	:	CASE NO.: 1:95CV5119
	:	
AMERICAN HOME PRODUCTS CORPORATION, ET AL.	:	
	:	
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ORDER

Upon consideration of Wyeth's Motion For Partial Summary Judgment Re Statute of Limitations, and the response thereto, it is hereby ORDERED that the motion is denied, for the reasons set out in this Court's Memorandum Opinion and Order Denying Defendants' Motion for Partial Summary Judgment on Limitations Grounds (February 21, 1997) and Memorandum Opinion and Order Denying Defendants' Motion to Modify Judgment or, in the Alternative, to Withdraw the Ruling Denying Defendants' Motion for Partial Summary Judgment on Limitations Grounds (May 1, 1997).

The Court finds that this order "involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation," and it is therefore further ORDERED that this order is hereby certified pursuant to 28 U.S.C. § 1292(b) for interlocutory review by the Court of Appeals.

Signed this ____ day of _____, 1999.

RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE